

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of Minnesota Power's Petition to
Amend its Electric Service Agreement with
National Steel Pellet Company

ISSUE DATE: April 29, 1988

DOCKET NO. E-015/M-88-86

ORDER APPROVING CONTRACT
AMENDMENTS AND DEFERRING
RATEMAKING TREATMENT

PROCEDURAL HISTORY

On January 22, 1988 Minnesota Power (the Company) filed a petition requesting approval of proposed amendments to its Electric Service Agreement with National Steel Pellet Company (National), a Large Power customer. The Company also requested that the Commission accept the Company's proposal for ratemaking treatment of a \$4,477,000 payment to National required under the amendments.

The Department of Public Service (DPS or the Department) examined the amendments and recommended approval. The Department also recommended deferring ratemaking treatment of the payment until the investigations ordered in conjunction with the Company's sale of interests in its Clay Boswell 4 facility. Docket No. E-002, -015/PA-86-722.

The Office of the Attorney General filed comments expressing no objection to the proposed amendments but stating that the existing record was inadequate for determining ratemaking treatment of the payment. That office, too, recommended deferring ratemaking treatment until the Clay Boswell 4 investigations.

STATEMENT OF THE ISSUES

The issues before the Commission are whether the proposed contract amendments are just, non-preferential, and non-discriminatory under Minn. Stat. § 216B.03, and if so, whether ratemaking treatment of the payment they require should be determined now.

FINDINGS AND CONCLUSIONS

Factual Background

In the mid 1970's, many of the taconite producers on Minnesota Power's Large Power tariff planned major expansions of their operations. The Company responded by planning major expansion of its generation capacity. At the same time, it required Large Power customers to sign long term contracts to help ensure recovery of its expansion costs.

In the early 1980's changes in the world steel market caused the demand for domestic steel to fall dramatically. Many of the taconite producers who had signed long term contracts were forced to curtail their operations. They therefore had no need for much of the power they had agreed to take, and had difficulty paying for it. This created problems for the customers themselves, for the Company, and for ratepayers in other classes, whose rates reflected a rate base expanded to meet Large Power needs which had since dwindled.

Enforcing the long term contracts was an unsatisfactory approach, because some Large Power customers could not continue to operate if forced to take power at contract levels. What has developed has been a compromise approach in which the Company and individual Large Power customers negotiate contract amendments reducing contract demand levels in return for extending the length of the contracts. This provides some financial relief to both customers and the Company, while allowing all parties additional time for planning. The Commission has approved such contract amendments on several occasions. (See Docket Nos. E-015/M-83-111, E-015/M-85-794, and E-015/M-86-180.) The amendments at issue fall into this general category.

National did not accept the contract amendments approved in Docket E-015/M-85-794. In that docket, the Commission urged National and the Company to continue negotiations until they reached agreement. The amendments currently before the Commission are the results of those negotiations.

The amendments at issue vary somewhat from those approved in earlier dockets, however, in that they provide for a cash payment to a customer in addition to reducing the customer's contract demand level. It is therefore important to examine the contract as a whole to make sure it is not discriminatory or unreasonably preferential.

The Legal Standard

The statute governing the setting of electric rates in Minnesota provides as follows:

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable and consistent

in application to a class of customers. . . .

Minn. Stat. § 216B.03 (1986).

Approval of Proposed Amendments

The Commission agrees with the Department that the contract amendments at issue are not unjust, unreasonably preferential, or discriminatory. They are the result of arms-length negotiations by relatively equal bargaining partners. Their terms are not unreasonable as to either party; they are mutually advantageous. National receives rate relief and Minnesota Power receives assurance of continued revenue from the National account. Neither party appears to have imposed its will on the other.

Furthermore, the amendments are in the general public interest. Preventing drastic and sudden revenue loss by Minnesota Power is a matter of public concern. Its ratepayers make up a substantial portion of the citizens of Northeastern Minnesota and include major industries on which the area's economic vitality depends. Retaining large volume customers is critical to maintaining affordable rates, which are important to the economic health of the area, its industries, and all its citizens.

The remaining issue is whether the contract amendments are unfairly preferential and discriminatory as to the Company's other Large Power Customers. Again, the Commission agrees with the Department that they are not.

The Commission agrees with the Department that contracts such as these can only be examined and compared as wholes. They are negotiated as a package, and individual terms vary according to the overall goals and values of the parties. Only by examining the contract as a whole can one make a meaningful judgment about how favorable or unfavorable it is.

With this in mind, the Department prepared a chart listing the ratios between what the Company gained in assured revenue and what it lost in revenue concessions in the contract at issue and in amended Large Power contracts approved in earlier Commission dockets (E-015/M-85-794 and E-015/M-86-180). That chart is attached as Attachment 1. National's ratio of .113 is clearly not aberrant in relation to the ratios of other companies.

The Commission concludes that the contract amendments negotiated by Minnesota Power and National are not unreasonably preferential or discriminatory, are just, are in the public interest, and will be approved.

Ratemaking Treatment Deferred

The Company also proposed specific ratemaking treatment of the \$4,477,000 it plans to pay to National. The Commission agrees with the Department and the Office of the Attorney General that it is more appropriate to defer ratemaking treatment of this payment to the time of the investigations surrounding the sale of interests in Clay Boswell 4. This is consistent with Commission practice and

is the better procedure in this case.

The Commission has generally been reluctant to decide ratemaking issues without the benefit of the fully developed record provided by a rate case. Such issues are generally too complex, too far-reaching in their effects, and too intertwined with other issues to decide on a piecemeal basis. This issue is no exception. Furthermore, a decision now could not bind a future Commission when it is setting rates prospectively.

Finally, the investigations scheduled in connection with the Clay Boswell 4 sales provide an ideal opportunity for the kind of comprehensive examination this issue merits. The Commission will therefore defer ratemaking treatment of the payment to National until those investigations.

ORDER

1. The Commission approves Minnesota Power's January 22, 1988 petition to amend its Electric Service Agreement with National Steel Pellet Company.
2. The Commission will determine ratemaking treatment of the \$4,477,000 payment provided for in the Electric Service Agreement when it acts on the investigations ordered in Docket No. E-002, E-015/PA-86-722.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)